

CASE NO. 3:17-cv-149-FDW-DCK

Defendant.

# AFFIDAVIT OF JAKE RAU

5. The most recent MSA, under which Landmarc is currently providing gas drilling and construction services to Republic, was negotiated in 2015 and went into effect on January 1, 2016. The MSA has a three-year term, expiring on December 31, 2018.

6. The MSA governs the pricing for all of the gas drilling projects Landmarc does for Republic. The prices under the MSA have been set through December 31, 2018. Landmarc therefore does not bid on each of Republic's gas drilling projects and its prices for those projects are pre-determined. Because there is no bid process for the work Landmarc performs for Republic under the MSA, Carlson Environmental Consultants, PC ("CEC") does not compete with Landmarc for that work.

7. Republic has entered into MSAs with other primary contractors to perform gas drilling services. I am familiar with those other contractors because Republic sends group emails to its primary contractors and I am copied on those emails. CEC is not one of the contractors listed in the group emails and is not one of Republic's primary contractors.

8. From time to time, Landmarc uses subcontractors to work on gas drilling projects. One of the subcontractors it used in the past was Quality Drilling Services ("QDS"). Sean Slayton performed the drilling work that Landmarc subcontracted to QDS.

9. After CEC acquired QDS, Landmarc subcontracted some drilling work to CEC, with Mr. Slayton again performing the work. In connection with the subcontracting work, CEC disclosed to Landmarc its pricing information, including the price per linear foot that it charges for landfill gas drilling services. CEC's pricing information is therefore not a secret to Landmarc. CEC freely disclosed that information when it sought the subcontracting work from Landmarc and when it invoiced Landmarc for that work.

10. After CEC terminated Mr. Slayton's employment in December 2016, Landmarc hired him in January 2017 to perform landfill gas drilling services. For Landmarc, Mr. Slayton operates a drill rig to drill holes in landfills where engineers tell him to drill holes. Mr. Slayton does not supervise other drillers and has not supervised Josh Goosman at Landmarc.

11. Mr. Slayton has had no involvement in bidding for projects, setting pricing, soliciting customers, or otherwise negotiating with customers, contractors or suppliers on behalf of Landmarc. Landmarc already has employees, including me, who handle those functions, and it does not want or need Mr. Slayton to perform them.

12. Mr. Slayton has not shared with Landmarc any confidential information or trade secrets belonging to CEC. Slayton has not shared any of the salaries or other compensation CEC pays to its employees. Nor has Mr. Slayton shared with Landmarc any of CEC's price formulations, methods of calculating bids, or any other information relating to CEC's pricing or bidding process. Such information would not be helpful to Landmarc because of differences in company size and overhead. In any event, Landmarc already knew CEC's pricing information through the subcontracting work CEC performed for Landmarc.

13. Since joining Landmarc, Mr. Slayton has performed work for the following five entities: (1) Republic; (2) the City of Amarillo; (3) BEL Environmental ("BEL"); (4) Clark Floyd Landfill; and (5) Advanced Disposal.

14. Around 75% of the work Mr. Slayton has performed since joining Landmarc has been for Republic under the terms of the MSA, which were negotiated before Mr. Slayton became employed by Landmarc.

15. Landmarc obtained the project for the City of Amarillo through an open, public bid process. Attached as Exhibit A are copies of the opening bid sign-in sheet and the amounts

for the bids that were submitted. The sign-in sheet shows that CEC did not attend a mandatory pre-bid meeting in May 2017 and the bid sheet shows that CEC did not bid on this project. Greg Zimmerman (Project Expeditor) and I prepared Landmarc's bid for this project. Sean Slayton had no involvement in the bid process.

16. Earlier this year, Landmarc bid on, and lost, a project for Waste Management Services, Inc. ("Waste Management") to perform drilling services at its landfills located in Hickory Hill, SC, Oak Hill, SC, and Louisville, KY. BEL, which won the bid and with which I had a past relationship, contacted me directly to see if Landmarc was interested in doing subcontracted drilling work on the project. Casey Taylor (Project Manager) and I prepared a price quote for the subcontracting work. BEL retained Landmarc, and, upon information and belief, never asked CEC to submit a quote. Mr. Slayton was not involved in preparing the original bid to Waste Management or the quote to BEL. After BEL retained Landmarc, Mr. Slayton performed some drilling work under the subcontract at the Louisville, KY landfill.

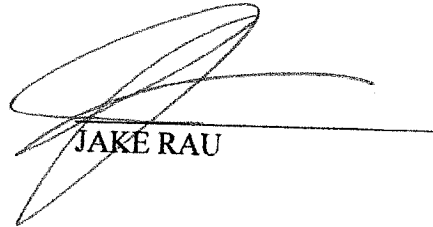
17. Landmarc obtained the Clark Floyd landfill work through a personal relationship between Mr. Taylor and the landfill's engineer. This was a small project involving only three wells and the landfill was therefore having difficulty obtaining quotes. Landmarc had a drill nearby and was therefore able to do the work without incurring substantial transportation costs. Mr. Taylor prepared the quote for the work. Mr. Slayton was not involved in obtaining the work or preparing the quote.

18. Landmarc obtained the work for Advanced Disposal through a professional relationship between a Senior Project Manager at Advanced Disposal and Bryan DeVerona, a Senior Project Manager at Weaver Consultants Group, LLC (an affiliate of Landmarc). Mr. Slayton was not involved in obtaining this work or pricing the job.

19. I am familiar with a separate project that was put out for bid at the Arbor Hills landfill in Michigan. Landmarc did not bid on that project.

20. I am familiar with Bauer Pileco, which is a supplier of drilling equipment. Landmarc and I have had a relationship with Bauer Pileco since well before Mr. Slayton started working for Landmarc. On behalf of Landmarc, I have been involved in the negotiations with Bauer Pileco for drilling equipment. Mr. Slayton has had no involvement in any such negotiations, and Landmarc does not need or want Mr. Slayton to be involved in them.

This the 13<sup>th</sup> day of September, 2017.

  
JAKE RAU

ILLINOIS

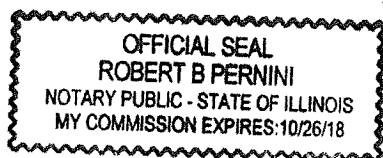
COOK COUNTY

I, ROBERT PERNINI, a Notary Public do hereby certify that JAKE RAU, personally appeared before me this day and acknowledged the due execution of the foregoing Affidavit.

WITNESS my hand and official seal, this the 13<sup>th</sup> day of September, 2017.

  
Notary Public

My Commission Expires: 10/26/18



CITY OF AMARILLO PURCHASING DEPARTMENT

BID OPENING SIGN IN SHEET

June 1, 2017

**PLEASE READ:**

"Pursuant to Local Government Code 252.041 we will open & read aloud all bids that are due to open today. In no way does reading these bids indicate that the bids received are complete and correct. This will be determined only in the bid evaluation phase."

Recap sheets will be posted on website by noon Friday.

Bids will be made available for review after bid opening, by submitting an "open records request" to the Purchasing Agent in writing.

NAME Alan Harder

COMPANY CoA

NAME Robert Butler

COMPANY SCS

NAME Lacey Taylor

COMPANY Landmark Environmental

NAME Chris Kessler

COMPANY Fuller & Sons

NAME Adam Hamed

COMPANY Spiess Construction

NAME Thomas Kessler

COMPANY City of Amarillo

NAME U.S. Sp

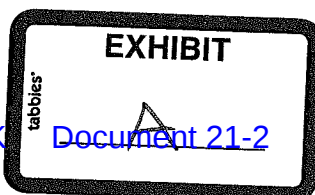
COMPANY COA

NAME \_\_\_\_\_

COMPANY \_\_\_\_\_

NAME \_\_\_\_\_

COMPANY \_\_\_\_\_



**BID NO. 5761 CITY OF AMARILLO LANDFILL  
GAS COLLECTION AND CONTROL SYSTEM-PHASE 1**

**PROJECT ESTIMATE \$5,386,503.00**

[illegible]